IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.107 OF 2005
IN
WRIT PETITION NO.779 OF 2003

Sharmishttha @ Seema
Surendra Shah .. Petitioner.
Vs.
Surendra Ratilal Shah .. Respondent.

Mr.N.B.Shah for the petitioner.

Mrs.S.S.Gokhale for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 15TH FEBRUARY, 2006

P.C.:

. Heard learned counsel for the parties.

2. The writ petition bearing No.779 of 2003 was placed before me on 3rd November, 2003. While disposing of the writ petition the following observations in paragraph 3 were made:

> "3. Keeping in view the peculiar facts and circumstances of the case and that it pertains to a matrimonial dispute, I am inclined to allow the prayer for sending the disputed document, viz. the letter marked as "X-4" for identification, to the hand-writing expert for his opinion whether the said letter was written by the respondent-husband. I do not wish to enter into the controversy whether the document is admissible in evidence or not. That can be decided by the Family Court at an

> appropriate stage. The Family Court is, therefore, directed to pass necessary orders to that effect. After receipt of the opinion of the hand-writing expert, it would be open for the parties to address the Family Court on the issue of admissibility of the disputed document."

. It appears that in pursuance of the aforesaid order the Family Court passed the following order on 16th January, 2004:

> . The Registrar, Family Court, Mumbai is directed to obtain specimen of petitioner's hand-writing in his presence, certify the same accordingly and thereafter forward the letter marked as "X-4" for identification, alongwith the aforesaid specimen hand-writing of the petitioner to the Government Hand-writing expert Bureau for opinion.
>
> . The Government Hand-writing Expert Bureau to examine the hand-writing on the letter "X-4" for identification and the specimen hand-writing of the petitioner certified by the Registrar of this Court and to opine whether the hand-writing in both these documents is of one and the same person i.e. the petitioner or not.
>
> . The respondent to bear all the expenses for obtaining hand-writing expert's opinion."

3. I am informed by Mr.Shah, learned counsel for the petitioner that the respondent was not co-operative and he did not give specimen hand-writing, as directed in the aforestated order, stating that he does not know Gujarati and as a result of which the disputed signature on the document marked as "X-4" alongwith admitted

hand-writing remained to be forwarded to the hand-writing expert. The petitioner, therefore, filed application No.73 of 2004 before the Family Court, seeking review of the order dated 16.1.2004, in which the following prayer was made:

> "(a) This Hon'ble Court may be pleased to clarify and/or modify the order dated 16th January 2004 and direct the Officer/Registrar of this Hon'ble Court to send the hand-writing of the petitioner taken before him and the impugned document alongwith the xerox certified copy of the petition as well as the Vakalatnama of the petitioner for comparison of the writing and comparison of the initials/signature on the letter marked for identification with the alphabet "S" in the signature of the petitioner and/or with the admitted signature of the petitioner, on his petition and the Vakalatnama for the opinion of the Hand-writing expert."

4. The application seeking review was, however, rejected by the Family Court in view of the order dated 16th January, 2004. The operative part of the order dated 4th February, 2005 passed on the review application reads thus:

> "The application is rejected.
> The Registrar is directed to comply the order dated 16.1.2004 within one week from today.
> The petitioner is directed to attend the office of the Registrar, Family Court, Mumbai on or before 11.2.2004.
> The hand-writing expert to send his/her report to this Court within one month from the date of receipt of the documents."

5. Since the order dated 16.1.2004 remained to

be complied with for quite sometime and the application seeking review thereof also came to be rejected vide order dated 4.2.2005 the applicant carried that order in writ petition bearing No.2428 of 2005. This Court passed the following order on 19.4.2005 on the writ petition No.2428 of 2005:

> 1. Heard Mr.Shah, the learned counsel for the petitioner wife. The impugned order passed by the Family Court is on the basis of the direction issued by this Court in Writ Petition No.779 of 2003. Mr.Shah states that he would file a Review Petition in Writ Petition No.779 of 2003 and, therefore, he seeks leave to withdraw this petition.
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> 2. Leave granted with liberty as is available in law. The petition is disposed of as withdrawn.
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> 3. Certified copy is expedited."

6. It is against this backdrop the petitioner has prayed for direction to the Family Court to forward disputed signature alongwith the signature of the respondent on the Vakalatnama filed in the proceedings duly signed by him. It is not in dispute that the Vakalatnama signed by the respondent is on the record of the Family Court and in view thereof it is open for the Registrar, Family Court, Mumbai to forward the same alongwith disputed signature to the hand-writing expert in pursuance of the order passed by this Court on

3.11.2003. The hand-writing expert shall submit his report as expeditiously as possible and preferrably within six weeks from the date of receipt of the communication. In view of this the review application stands disposed of. It is needless to express that since the matter is being delayed for more than three years the Registrar, Family Court is expected to act promptly.

7. The parties to act on authenticated copy of this order duly issued by the Registry of this Court.

(D.B.Bhosale, J.)